

Plaintiff, complaining of Defendant, alleges and says:

- 1. Plaintiff, the North Carolina State Bar ("Plaintiff" or "State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the rules and regulations of the North Carolina State Bar promulgated thereunder.
- 2. Defendant, David Shawn Clark ("Defendant" or "Clark"), was admitted to the North Carolina State Bar on 23 August 1997 and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
- 3. During the relevant period referred to herein, Clark actively engaged in the practice of law in the State of North Carolina and maintained a law office in Hickory, Catawba County, North Carolina.

FIRST CLAIM FOR RELIEF

- 4. The allegations of paragraphs 1-3 are incorporated by reference as if fully set forth herein.
- 5. In or about November 2008, Clark represented Tiffany Turnmire ("Turnmire') in a domestic matter involving her estranged husband, Timothy Turnmire, and was appointed to represent her in a juvenile abuse, neglect and dependency matter.
- 6. Clark had previously represented Turnmire in 2007 in a child custody matter.

- 7. During the times relevant herein, Turnmire was married to Timothy Turnmire.
- 8. From May 2009 through July 2009 and during his representation of Turnmire, Clark engaged in sexual relations with Turnmire.
- 9. In September 2009, Turnmire's husband learned of her sexual relationship with Clark.
- 10. Turnmire's husband told Clark that he planned to file a civil action for alienation of affection against Clark.
- 11. Clark's representation of Turnmire ended in December 2009 after Clark withdrew from the representation.
- 12. In early January 2010, Turnmire's husband filed a civil action against Clark for alienation of affection: Catawba County Superior Court Civil Action no. 10 CVS 08.
- 13. Turnmire's husband filed an affidavit signed by Turnmire and dated 29 December 2009 in support of his lawsuit.
- 14. In this 29 December 2009 affidavit, Turnmire states that she and Clark had a sexual relationship.
- 15. On or about 7 January 2010, Clark and his wife filed a verified complaint to initiate a lawsuit against Turnmire, Catawba County Superior Court Civil Action no. 10 CVS 28.
- 16. The following statements were included among the allegations that Clark made against Turnmire in his civil complaint against her:
 - a. "In September or October 2009, upon information and belief, [Turnmire], angered by Mr. Turnmire's actions with his mistress, confronted Mr. Turnmire. During that confrontation, out of jealousy, the [Turnmire] falsely stated to Mr. Turnmire that she had a sexual relationship with Plaintiff David Shawn Clark. By her own admission, this false, misleading and slanderous statement was made for the sole purpose to make Mr. Turnmire jealous and angry."
 - b. "On or about December 29, 2009, the [Turnmire] made and published a false, misleading and defamatory sworn written affidavit in which she sates she had a sexual relationship with the Plaintiff David Shawn Clark."
 - c. "[Turnmire], upon information and belief, produced or participated in the production of fabricated e-mails between the Defendant and

- Plaintiff David Shawn Clark, which contained false, misleading and defamatory statements about Plaintiff David Shawn Clark."
- d. "[Turnmire], upon information and belief, has continued to make and publish false, misleading and defamatory statements that she had a sexual relationship with Plaintiff David Shawn Clark."
- e. "The Plaintiff David Shawn Clark has never had a sexual relationship with [Turnmire]."
- f. "The statements of [Turnmire] are false, misleading, defamatory and libelous."
- g. "On numerous occasions and times, [Turnmire] has repeatedly stated the false allegations previously described in the false affidavit and the fabricated emails."
- 17. The statements referenced in paragraphs 16a. g. above were false. Clark knew that these statements were false at the time that he made them.
- 18. The complaint filed by Clark revealed information concerning Turnmire acquired by Clark during the attorney-client relationship, to include the following statements:
 - a. "From April 15, 2008 until September 4, 2008, upon information and belief, [Turnmire] was involuntarily committed due to Major Depressive Disorder stemming from the constant physical abuse she received from Mr. Turnmire."
 - b. "In late 2008, upon information and belief, [Turnmire] tested positive for cocaine."
 - 19. Ultimately, Clark dismissed the lawsuit he filed against Turnmire.
- 20. On or about 3 March 2010, the State Bar Grievance Committee sent a letter of notice to Clark requesting information concerning allegations of attorney misconduct.
- 21. In his 12 April 2010 response to the letter of notice, Clark adamantly denied any sexual relationship with Turnmire.
- 22. Clark knew that his denial of any sexual relationship with Turnmire was false.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(3) in that he made false statements in his 12 April 2010 response to the State Bar Grievance Committee's inquiry, and grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

- (a) By having sexual relations with Turnmire during his representation of her, Defendant engaged in a sexual relationship with a current client in violation of Rule 1.19(a), and engaged in a conflict of interest by representing a client when said representation was materially limited by a personal interest of the lawyer in violation of Rule 1.7(a)(2);
- (b) By making false statements in the verified complaint he filed in support of his civil lawsuit against Turnmire, Defendant made a false statement of material fact to the tribunal in violation of Rule 3.3(a), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (c) By filing a lawsuit against Turnmire that was based on false statements and not based in truth, Defendant brought a frivolous proceeding that was not based in fact in violation of Rule 3.1;
- (d) By revealing confidential information he obtained from Turnmire during his representation of Turnmire in the verified complaint he filed in support of his lawsuit against her, Defendant revealed information acquired during the professional relationship with the client, without the client's informed consent in violation of Rule 1.6(a); and
- (e) By making false statements to the State Bar Grievance Committee, Defendant knowingly made a false statement of material fact to a disciplinary authority in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

SECOND CLAIM FOR RELIEF

- 23. The allegations of paragraphs 1-22 are incorporated by reference as if fully set forth herein.
- 24. In or about November 2009, Clark prepared an affidavit for Turnmire's signature.
 - 25. Clark met with Turnmire to obtain her signature on the affidavit.
- 26. The affidavit Clark prepared for Turnmire included the following false statements:
 - a. "In fact, I never had a sexual relationship with Shawn Clark. Shawn Clark and I had an attorney-client relationship and a friend relationship, but we never engaged in sexual relations."

- b. "I decided to not go to Florida and asked Shawn Clark to borrow money to go to Las Vegas, Nevada. He stated he could not loan me money. When he was in Nevada, I asked him again, and he agreed to loan me money for a plane ticket and a hotel room. I agreed to pay him back but I had little money at that time. He loaned me money for this trip as a friend and nothing more. My intentions were to find some peace and read some books."
- c. "I arrived in Las Vegas, Nevada and met with him and his friends. There was no inappropriate activity between me and Shawn Clark or his friends whatsoever. I had my own hotel room on a separate wing and floor and I was treated in a respectful manner by everyone. I certainly did not engage in sexual activity with anyone as I was menstruating at that time."
- d. "I also believe Mr. Turnmire has fabricated e-mail messages to fabricate a sexual relationship between me and Shawn Clark."
- 27. Clark threatened Turnmire, when she indicated that she did not want to lie, that if she did not do as he was telling her to do he would see to it that she would lose custody of her children.
- 28. Clark further threatened Turnmire that if she did not do as he was telling her to do, that he would provide information that he received as a result of the attorney-client privilege to see that her children would be taken and kept from her by the Department of Social Services.
- 29. Clark told Turnmire that she "should watch [her] back because things would get ugly."
- 30. T. J. Edwards (hereafter "Edwards") was Clark's legal assistant during Clark's representation of Turnmire.
 - 31. Edwards knew about Clark's relationship with Turnmire.
- 32. Clark sought a promise from Edwards that she would never reveal what she knew about the true nature of the relationship between Clark and his client, Turnmire.
- 33. Edwards told Clark that "she would not put her hand on the Bible and lie for anyone."
- 34. Upon hearing this statement, Clark became quite agitated towards Edwards and advised her that she was his only "loose end."
- 35. Clark advised Edwards that he would not lose his family or law license over the issues he was facing.

- 36. Clark threatened Edwards that if she did not do what he requested "then you know I'm going to have to kill you?"
- 37. By attempting to get Edwards to deny her knowledge of Clark's sexual relationship with Turnmire and threatening Edwards when she would not agree to falsely deny her knowledge of this relationship, Clark attempted to suborn perjury in violation of North Carolina criminal law.
- 38. By attempting to have Turnmire sign an affidavit that contained false statements and threatening Turnmire when she indicated she did not want to lie about the nature of Clark's relationship with her, Clark attempted to suborn perjury in violation of North Carolina criminal law.
- 39. In a 3 June 2011 response to a supplemental inquiry from the State Bar Grievance Committee, Clark stated that he had at all times given truthful information to the State Bar, and stated that he had never asked Turnmire or Edwards to lie for him.
 - 40. Clark's statements referenced in paragraph 39 above were false.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(3) in that he made false statements in his 3 June 2011 response to the State Bar Grievance Committee's supplemental inquiry, and grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

- (a) By preparing a false affidavit for his client to sign and threatening her if she would not sign it, and threatening to kill a witness if she failed to provide false statements in support of his legal defense, Defendant counseled witnesses to give false testimony in violation of Rule 3.4(b), committed criminal acts that reflect adversely on his trustworthiness or fitness as a lawyer in violation of Rule 8.4(b), engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c), and engaged in conduct that is prejudicial to the administration of justice in violation of Rule 8.4(d); and
- (b) By making false statements to the State Bar Grievance Committee, Defendant knowingly made a false statement of material fact to a disciplinary authority in violation of Rule 8.1(a), and engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of Rule 8.4(c).

THIRD CLAIM FOR RELIEF

41. The allegations of paragraphs 1-40 are incorporated by reference as if fully set forth herein.

- 42. In November 2011, Clark was indicted on criminal charges for his conduct as described in the Second Claim for Relief above, specifically for his threats to Turnmire and Edwards, and for his attempt to obtain Turnmire's signature on an affidavit that contained false information.
- 43. On 14 September 2012, Clark entered a guilty plea on two misdemeanor counts of communicating threats and one misdemeanor count of obstruction of justice.

THEREFORE, the State Bar alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C.G.S. § 84-28(b)(1) in that he pled guilty to two misdemeanor counts of communicating threats and one misdemeanor count of obstruction of justice, criminal offenses showing professional unfitness; and grounds for discipline pursuant to N.C.G.S. § 84-28(b)(2) in that he violated one or more of the Rules of Professional Conduct in effect at the time of the actions as follows:

(a) By communicating threats to his former client and employee and obstructing justice by preparing a false affidavit, Defendant committed criminal acts that reflect adversely on his honesty, trustworthiness or fitness as a lawyer in violation of Rule 8.4(b).

WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C.G.S. § 84-28 (c) and 27 N.C.A.C. 1B § .0114 as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 14th day of February, 2013.

Margaret M. Hunt, Chair

drievance Committee

Leanor Bailey Hodge, Deputy Counsel

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North Carolina State Bar

State Bar No. 27253

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STATE OF NORTH CAROLINA

BEFORE THE DISCIPLINARY HEARING COMMISSION

WAKE COUNTY	OF THE NORTH CAROLINA STATE BAR 12 DHC 42
THE NORTH CAROLINA STATE BAR,	
Plaintiff v. DAVID SHAWN CLARK, Attorney,	ACCEPTANCE OF SERVICE
Defendant	

This is to certify that Dudley A. Witt, as counsel for and on behalf of Defendant David Shawn Clark, has accepted service of the Summons and Complaint filed by the North Carolina State Bar in the above captioned case and that service of the accompanying Summons and Complaint in the above captioned case is hereby accepted and receipt of a copy of same is hereby acknowledged.

This the day o	f	, 2013.	
		Dudley A. Witt Attorney for Defendant, David	Shawn Clark